

EXHIBIT 12

Expert Report in the Matter of Kincaid v. Bank of America

Joel P. Wiesen, Ph.D.
November 4, 2005

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Joel P. Wiesen, Ph.D.
November 4, 2005

1 My Charge

My name is Joel P. Wiesen. I have been retained as an expert witness for the plaintiff in this action to conduct statistical analyses pertaining to Bank of America's employee terminations from August 20, 2002 to June 13, 2003.

2 My Professional Background and Some Related Information

A. Professional Experience, Education, and Qualifications

I am the Director of Applied Personnel Research in Newton, Massachusetts. I was awarded a Ph.D. in Psychology from Lehigh University in 1975. My major field of doctoral study was experimental psychology and my minor field of study was psychometrics. My study in statistics included courses in both the psychology and mathematics departments. I have taught college courses in industrial psychology, experimental methods, and statistics at the undergraduate and graduate levels. I have made frequent presentations before professional groups, including several invited addresses. I have served as President of the International Personnel Management Association Assessment Council (IPMAAC), an organization of over 500 testing professionals, and as President of the New England Society for Applied Psychology (NESAP), a Boston-area association of applied psychologists. From 1989 to 2005 I served on the Program Committee for at least seven conferences of the annual conference of the Society for Industrial and Organizational Psychology, a national, professional group of several thousand members.

Since 1975, I have worked in that area of psychology known as industrial psychology, particularly in the development of fair, valid personnel assessment methods and instruments for the evaluation, selection and promotion of employees, and related applied psychological research. For over 15 years I worked for the Department of Personnel Administration, later called the Human Resources Division, of the Commonwealth of Massachusetts. While employed there I was charged with developing two job performance evaluation systems, one for all state managers (covering about 3,000 employees) and the other for all non-managerial state employees (covering perhaps 50,000 employees). Since I left the employ of the Commonwealth of Massachusetts, my professional work has consisted mainly of consulting to large organizations and municipalities on personnel assessment and selection matters, and developing new, written tests of aptitude and knowledge. During the course of my professional work, I have provided and continue to provide advice to large organizations regarding human resource issues, including evaluation of proposed personnel actions. I have conducted many hundred and perhaps several thousand analyses of the type described below to evaluate the impact of job actions on members of protected classes. Most of these analyses were undertaken at the request of large, private-sector organizations, prior to planned

reorganizations of staff that would result in fewer total employees. In some cases, the organizations reconsidered and modified their original plans on the basis of these analyses

I have served as an expert in employment discrimination cases, including age, race, and sex discrimination cases, a few of which have gone to trial. I have served as an expert consultant on testing matters for the Massachusetts Attorney General's Office, the Connecticut Department of Administrative Services, the Connecticut Attorney General's Office, and the US Department of Justice, as well as several large private sector organizations. I have lectured and published in the areas of personnel assessment, employment discrimination, and civil service examining. I have made presentations before professional groups, including several invited addresses. I am licensed as a psychologist in Massachusetts and Pennsylvania. A copy of my resume is attached to this report.

B. Publications and Papers

What follows is a list of the publications I have authored and the papers presented at professional meetings in the past ten years. Where these were authored with others, it is so noted.

(1996, June) *Firefighter Selection With Low Adverse Impact: A Validation Study*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, Boston, MA.

(1996, June) *A Crash Course in Personnel Selection*. Pre-conference training program presented at the annual meeting of the International Personnel Management Association's Assessment Council, Boston, MA. (with T. R. Lin, Ph.D. and K. Shultz, Ph.D.)

(1996, June) *Illusive Teamwork KSAPs [knowledge, skills, abilities, and personal characteristics], A Second Validation Study*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, Boston, MA. (with M. McDaniel, Ph.D.)

(1996, September) *Two Case Histories in Personnel Selection Involving Work Force Diversity and Selecting Team Members*. Invited presentation to the New England Society of Applied Psychologists (NESAP) in Newton, MA.

1997) Adverse Impact and Testing, *NESAP News*, vol. 2, Issue 1

(1997, June) *A New Approach to Measuring Mechanical Aptitude*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, Newport Beach, CA.

(1997, June) *A Crash Course in Personnel Selection*. Pre-conference training program presented at the annual meeting of the International Personnel Management Association's Assessment Council, Newport Beach, CA. (with T. R. Lin, Ph.D. and K. Shultz, Ph.D.)

(1997, June) *Firefighter Selection With Low Adverse Impact: A Replication*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, Newport Beach, CA.

(1998, May) *Development of a New Test of Mechanical Aptitude*. Invited presentation to the New England Society of Applied Psychologists (NESAP), Newton, MA.

(1999, June) *A Review and Critique of Published Aptitude Tests for Computer Programmer*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, Trade Winds Resort, FL.

(1999, June) *The WTMA: a Measure of Mechanical Aptitude With Reduced Adverse Impact*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, Trade Winds Resort, FL.

(2000, June) *Content-Oriented Cultural Bias Review of Test Questions*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, Arlington, VA.

(2001) *Technical Manual for the Diagnostic Test of Pre-Algebra Math (DT-PAM)*. Applied Personnel Research, Newton, MA.

(2001, April) *Reducing Adverse Impact While Maintaining Validity; The Public Sector Experience: Some Possible Reasons for Adverse Impact*. Paper presented at the Annual Conference of the Society for Industrial and Organizational Psychology, San Diego, CA.

(2001, May) *Using Tests to Minimize Adverse Impact While Maintaining Validity*. Invited presentation to the Recruitment and Hiring Seminar of the Massachusetts Chiefs of Police Association Westborough, MA.

(2001, June) *Development of a New Test for Computer Programmer/Analyst Aptitude*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, Newport Beach, CA.

(2001, June) *Tutorial: Review of Multiple-Choice Test Items, With Emphasis on Cultural Bias*. Presented at the annual meeting of the International Personnel Management Association's Assessment Council, Newport Beach, CA.

(2002, April) *Review of Written, Multiple-Choice Test Items, With Some Emphasis on Cultural Bias*. Paper presented at the Annual Conference of the Society for Industrial and Organizational Psychology, Toronto, Canada.

(2002, July) *Developing Defensible Written Test Questions: Art, Science, and Some Guidelines* (with I. Gast, Ph.D. and D. Hamill). Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, New Orleans, LA.

(2002, July) *The PCBS: A Quantified, Public Safety Candidate Background Self-Report Instrument*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, New Orleans, LA.

(2002, October) *Some Possible Reasons for the Black-White Mean Score Differences Seen With Many Cognitive Ability Tests*. Paper presented at the annual meeting of the Institute for the Study and Promotion of Race and Cultures, Boston, MA.

(2003) *How to Prepare for the Mechanical Aptitude and Spatial Relations Tests*. Barrons Educational Series, Hauppauge, NY.

(2003) *Technical Manual For The Diagnostic Test for High School Math (DT-HSM)* Applied Personnel Research, Newton, MA.

(2003) *Technical Manual For The Language-Free Computer Programmer/Analyst Aptitude Test (LPAT)*, Applied Personnel Research, Newton, MA.

(2003) *Technical Manual For The Police Candidate Background Self-Report (PCBS)*, Applied Personnel Research, Newton, MA.

(2003) *Guidelines and Suggestions for Avoiding Cultural Bias in Multiple-Choice Test Questions*. Reprinted by the ERIC Clearinghouse on Counseling & Student Services (ERIC/CASS), in the 2003 ERIC/CASS publication, *Measuring Up: Assessment Issues for Teachers, Counselors, and Administrators*, edited by Janet Wall and Garry Walz.

(2003, June) *An In Depth, Content Review of Spatial Ability Tests*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, Baltimore, MD.

(2003, June) *The Potential of Diagnostic Math Tests*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, Baltimore, MD.

(2004, October) *Adverse Impact: Theory & Practical Approaches*
Invited Address to the MAPAC Training Workshop, New York, NY

(2005, June) *Innovative, Psychometrically Sound Approaches to Hiring Firefighters*, Member Showcase Presentation to the New England Society for Applied Psychology, Weston, MA.

(2005, June) *Statistical Support of Test Fairness Reconsidered*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, Orlando, FL.

(2005, June) *Minimizing Adverse Impact: Learning from some Serious Flaws in the Wonderlic Personnel Test*. Paper presented at the annual meeting of the International Personnel Management Association's Assessment Council, Orlando, FL.

C. Compensation

I am being compensated at my usual rate of \$185/hour for all work on this matter.

D. Court Appearances and Deposition

Within the past four years I have appeared as an expert at trial or by deposition in connection with the following matter.

Terry Urban vs. Haliburton Energy Services, Inc., February, 2004
Charleston, West Virginia

I testified for the claimant at a binding arbitration hearing.

3. Subjects of Investigation

In connection with this action I was asked to address, through statistical analysis, the following question: Is the difference in involuntary termination rates for employees younger than 40 years of age and employees age 40 and over statistically significant?

4. Materials Reviewed

In preparing this report I reviewed the following written case documents provided to me by Attorney David Fine.

- A. Complaint dated July 6, 2004
- B. Plaintiff's Memorandum in Support of Motion to Compel Discovery and for Sanctions, pages 1-8 only (dated August 11, 2005, per a letter from David Fine to me)
- C. An email from Erik Fine to Vipin Mayar dated November 6, 2002
- D. An email from Elizabeth Janak to Alex Kotopoulos together with a related one page table (BA116-BA117).
- E. Defendant's Supplemental Responses to Plaintiff's First Set of Interrogatories to Defendant, dated July 1, 2005, with Attachments A, B, C, D, and E.
- F. Pages labeled BoA 0659 thorough 0668, including Identification Data Sheet at BoA 0666.
- G. Deposition of Steven Kincaid, taken on May 18, 2005
- H. First and second sessions of deposition of Sheila Burroughs, taken on June 1 and 2, 2005.
- I. First and second sessions of deposition of Alec Kotopoulos, taken on June 2, 2005 and October 17, 2005
- J. Deposition of Christine Lamano, taken on August 23, 2005
- K. Uncertified rough draft transcript of deposition of Eric Fine, taken on October 19, 2005
- L. Uncertified rough draft transcript of deposition of Sheila Burroughs, taken on October 19, 2005
- M. Defendant's Second Supplemental Responses to Plaintiff's First Set of Interrogatories to Defendant, dated October 10, 2005
- N. Two pages of tables, marked as Exhibit 1 at the Lamano deposition
- O. BoA 0572, containing a 10/4/02 nomination of Steven Kincaid by Susan Haloulos for recognition
- P. BoA 0137-0138, containing an email dated April 3, 2003 from Alan Church to Steven

Kincaid thanking Mr. Kincaid

- Q. BoA 0024, Bank of America's Sexual Harassment and Discrimination Policy, marked as Exhibit 6 at the Eric Montgomery deposition
- R. Letter dated April 25, 2003 from Deborah Martin Norcorss to J. Steele Alphin, marked as Exhibit 1 at the Montgomery deposition
- S. Letter dated April 30, 2003 from Eric Montgomery to Deborah Martin Norcross, marked as Exhibit 2 at the DuPre deposition.
- T. Letter dated May 20, 2003 from Deborah Martin Norcorss to Eric Montgomery, marked as Exhibit 3 at the Montgomery deposition
- U. Performance Plan and Evaluation Form for Q1 2003, marked as Exhibit 8 at the Kincaid deposition
- V. Associate Counseling memorandum dated 4/16/04 but signed 4/16/03, marked as Exhibit 9 at the Kincaid deposition
- W. BoA 0031, a page headed "Overall Rating: Needs Improvement/Does Not Meet Expectations," marked as Exhibit 2 at the Burroughs deposition
- X. BoA 0111-0115, a report described as "Perf Mgmt - Steven Kincaid," marked as Exhibit 7 at the Burroughs deposition.

5. Opinions On Termination Rates for Older and Younger Employees

As a result of my statistical analyses, I am of the opinion that:

- A. Among Market Information Managers employed at any time from August 20, 2002 to June 13, 2003, employees 40 years or age or older were terminated at a higher rate than employees younger than 40 years. This difference in termination rates is statistically significant.
- B. Among persons employed in the CAMR Department at any time from August 20, 2002 to June 13, 2003, employees 40 years or age or older were terminated at a higher rate than employees younger than 40 years. This difference in termination rates is statistically significant.
- C. Among persons employed at the level of Vice President or higher in July 2002, employees 40 years or age or older were terminated at a higher rate than employees younger than 40 years. This difference in termination rates is statistically significant
- D. Among Market Information Managers listed in an Identification Data Sheet dated 5/14/2004 (BoA 0666), employees 40 years or age or older were terminated at a higher rate than employees younger than 40 years. This difference in termination rates is statistically significant.
- E. That analyses of all these groupings of employees show adverse impact on employees age 40 or older further underscores the statistical significance found for each group, as just mentioned.

6. Statistical Analyses Conducted

In arriving at the above opinions, I conducted statistical analyses using commonly recognized and accepted tests which measure statistical significance. The analyses were conducted on several of the lists of employees provided to me, as specified below and as listed under the Materials Reviewed heading above. My understanding of the data is based on the written material reviewed (as listed above) and on discussions with Attorney David Fine.

To see if there was any statistically significant indication of higher termination rates for older employees in the time period the plaintiff was with the Bank, I considered three groups or categories of employees: Market Information Managers, CAMR employees, and Vice Presidents and higher. I used these groups because the plaintiff is a member of each of these categories.

The analyses of the three groups of employees just mentioned involved using data contained in Attachments A, B and D from Defendant's Supplemental Responses to Plaintiff's First Set of Interrogatories to Defendant, dated July 1, 2005. The data contained in Attachments C and E were not analyzed because only data for terminated employees were provided in those Attachments, and lacking data for retained employees no adverse impact analyses were possible.

I was also given data for the CAMR department related to a reduction in force that took place less than a year after the plaintiff left the Bank, and I analyzed those data to see if there was any statistically significant indication of a higher termination rate for older employees.

My analyses and findings are discussed immediately below.

7. Market Information Managers, August 20, 2003 to June 13, 2003

A. Persons employed by the defendant as Market Information Managers at any time from August 20, 2002 to June 13, 2003 are enumerated in Attachment A to Defendant's Supplemental Responses to Plaintiff's First Set of Interrogatories to Defendant, dated July 1, 2005. This list identifies people by "Person Number". There are 82 lines of data, ostensibly one per person, each identified by Person Number. Among the persons still employed (i.e., with a "Current Status" of "Active Assignment"), three pairs of lines contain identical information (labeled with Person Numbers 10106746, 27157916, and 10106564). I omitted what appears to be duplicate data for these 3 people, resulting in a list of 79 current and former employees. From this list, I identified the persons involuntarily terminated or still working for the Bank, based on the termination reasons given by the Bank (thereby omitting 14 voluntary terminations and 1 retirement). I also classified each person as either under 40 years of age, or as 40 years or age or older. To make these age classifications, I used the date of birth listed, and determined the age classification based on either the date of termination listed for the employees who were terminated, or June 13, 2003 for the employees who were not terminated. Table 1, below,

summarizes the pertinent data.

Table 1. Crosstabulation of Age Group and Employment Decision: Market Information Managers

		OUTCOME		Total
		Retained	Invol Term	
AGE	Under 40	43	2	45
	40+	14	5	19
Total		57	7	64

- B. As Table 1 indicates, 19 of the Market Information Managers employed during this time period were age 40 or over, while the remaining 45 Market Information Managers were under the age of 40. Of the 19 persons age 40 or over, 5 were terminated. As such, the termination rate for these older employees was 26.3%. By comparison, 2 of the 45 younger employees were terminated. The termination rate for the employees under age 40 was 4.4%.
- C. I subjected the above data to statistical analysis through the use of a well-recognized and accepted statistical test known as the Chi-Square test. I supplemented this by conducting another well-recognized and accepted statistical test known as Fisher's Exact Test. The Fisher's Exact test is somewhat more precise than the more widely used Chi-Square test, especially with small numbers of people, although in most cases the two tests yield similar results. The results of these two statistical tests are shown in Table 2, below.

Table 2. Summary of Chi-Square Analysis for Market Information Managers

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square with continuity correction	4.507	1	.034		
Fisher's Exact Test				.021	.021
N of Valid Cases	64				

- D. The numbers .034 and .021 in Table 2 represent the probability that a difference in termination rates as large as that observed might have occurred by chance. When assessing statistical significance in a case such as this, the most universally recognized standard is .05. That is, if the statistical test yields a result of .05 or less, the result is statistically significant. As .034 and .021 are both less than .05, the observed difference in termination rates is statistically significant. These tests establish that the difference in

termination rates for older and younger Market Information Managers are not likely to have occurred by chance.

8. Customer Analysis Modeling & Research Department, August 20, 2003 to June 13, 2003

- A. Persons employed by the defendant in the Customer Analysis Modeling and Research Department (CAMR) at any time from August 20, 2002 to June 13, 2003 are enumerated in Attachment B to Defendant's Supplemental Responses to Plaintiff's First Set of Interrogatories to Defendant, dated July 1, 2005. This list identifies people by "Person Number". There are 128 lines of data, ostensibly one per person, each identified by Person Number. From this list, it is possible to identify the persons involuntarily terminated or still working for the Bank, based on the termination reasons given by the Bank (thereby omitting 23 voluntary terminations and 1 retirement). It is also possible to classify each person as either under 40 years of age, or as 40 years or age or older based on the date of birth listed, and based on either the date of termination listed for the employees who were terminated, or June 13, 2003 for the employees who were not terminated. In doing this analysis I have relied on tallies prepared by the law office of David Fine. My intention is to check all the categorizations that underlie these tallies and to submit an amendment to this report if any of the tallies I relied on were inaccurate. Table 3, below, summarizes the pertinent data.

Table 3. Crosstabulation of Age Group and Employment Decision: Customer Analysis Modeling & Research Department Employees

		OUTCOME		Total
		Retained	Invol Term	
AGE	Under 40	54	5	59
	40+	32	13	45
Total		86	18	104

- B. As Table 3 indicates, 45 of the Market Information Managers employed during this time period were age 40 or over, while the remaining 59 Market Information Managers were under the age of 40. Of the 45 persons age 40 or over, 13 were terminated. As such, the termination rate for these older employees was 28.9%. By comparison, 5 of the 59 younger employees were terminated. The termination rate for the employees under age 40 was 8.5%.
- C. I subjected the above data to statistical analysis through the use of a well-recognized and accepted statistical test known as the Chi-Square test. I supplemented this by conducting another well-recognized and accepted statistical test known as Fisher's Exact Test. The Fisher's Exact test is somewhat more precise than the more widely used Chi-Square test, especially with small numbers of people, although in most cases the two tests yield similar results. The results of these two statistical tests are shown in Table 4, below.

Table 4. Summary of Chi-Square Analysis for Customer Analysis Modeling & Research Department Employees

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square with continuity correction	6.076	1	.014		
Fisher's Exact Test				.009	.007
N of Valid Cases	104				

D. The numbers .014 and .009 in Table 4 represent the probability that a difference in termination rates as large as that observed might have occurred by chance. When assessing statistical significance in a case such as this, the most universally recognized standard is .05. That is, if the statistical test yields a result of .05 or less, the result is statistically significant. As .014 and .009 are both less than .05, the observed difference in termination rates is statistically significant. (The .007 has a similar interpretation.) These tests establish that the difference in termination rates for older and younger CAMR employees are not likely to have occurred by chance.

9. Vice Presidents and Higher, July, 2002

A. Persons employed by the defendant as at the level of Vice President or higher in July 2002 are enumerated in Attachment D to Defendant's Supplemental Responses to Plaintiff's First Set of Interrogatories to Defendant, dated July 1, 2005. This list identifies people by "Person Number". There are 800 lines of data, ostensibly one per person, each identified by Person Number. It is possible to identify employees who were involuntarily terminated and employees who were retained. It is also possible to classify each person as either under 40 years of age, or as 40 years or age or older based on the date of birth listed. In doing this analysis I have relied on tallies prepared by the law office of David Fine. My intention is to check all the categorizations that underlie these tallies and to submit an amendment to this report if any of the tallies I relied on were inaccurate. Table 5, below, summarizes the pertinent data.

Table 5. Crosstabulation of Age Group and Employment Decision: Vice Presidents and Higher

		OUTCOME		Total
		Retained	Invol Term	
AGE	Under 40	307	33	340
	40+	287	72	359
Total		594	105	699

- B. As Table 5 indicates, 359 of the Market Information Managers employed during this time period were age 40 or over, while the remaining 340 Market Information Managers were under the age of 40. Of the 359 persons age 40 or over, 72 were terminated. As such, the termination rate for these older employees was 20.1%. By comparison, 33 of the 340 younger employees were terminated. The termination rate for the employees under age 40 was 9.7%.
- C. I subjected the above data to statistical analysis through the use of a well-recognized and accepted statistical test known as the Chi-Square test. The results of this statistical test is shown in Table 6, below.

Table 6. Summary of Chi-Square Analysis for Vice Presidents and Higher

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square with continuity correction	13.854	1	.000
N of Valid Cases	699		

- D. The number .000 in Table 6 represents the probability that a difference in termination rates as large as that observed might have occurred by chance. When assessing statistical significance in a case such as this, the most universally recognized standard is .05. That is, if the statistical test yields a result of .05 or less, the result is statistically significant. As .000 is less than .05, the observed difference in termination rates is statistically significant. This test establishes that the difference in termination rates for older and younger Vice Presidents and higher level employees is not likely to have occurred by chance.

10. CAMR Department, Data Summary Dated May 14, 2004

- A. Persons apparently employed by the CAMR as of May 14, 2004 are enumerated by job title in a page titled Identification Data Sheet dated May 14, 2004 and numbered BoA 0666. This list indicates people retained and terminated by job title and age. The list contains data for 42 employees. I selected the data for the 38 employees in the job Market Information Manager I (omitting data for 1 Administrative Assistant and 3 employees holding the position title "Mgr Customer Information"). I used the ages listed to categorize the employees as either under age 40, or age 40 or older. Table 7, below, summarizes the pertinent data.

Table 7. Crosstabulation of Age Group and Employment Decision: CAMR 5/14/04

		OUTCOME		Total
		Retained	Invol Term	
AGE	Under 40	25	0	25
	40+	9	4	13
	Total	34	4	38

- B. As Table 7 indicates, 13 of the Market Information Managers employed in CAMR during this time period were age 40 or over, while the remaining 25 Market Information Managers were under the age of 40. Of the 13 persons age 40 or over, 4 were terminated. As such, the termination rate for these older employees was 30.8%. By comparison, none of the 25 younger employees were terminated. The termination rate for the employees under age 40 was 0%.
- C. I subjected the above data to statistical analysis through the use of a well-recognized and accepted statistical test known as the Chi-Square test. I supplemented this by conducting another well-recognized and accepted statistical test known as Fisher's Exact Test. The Fisher's Exact test is somewhat more precise than the more widely used Chi-Square test, especially with small numbers of people, although in most cases the two tests yield similar results. The results of these two statistical tests are shown in Table 4, below.

Table 8. Summary of Chi-Square Analysis for CAMR 5/14/04

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square with continuity correction	5.641	1	.018		
Fisher's Exact Test				.010	.010
N of Valid Cases	38				

- D. The numbers .018 and .010 in Table 8 represent the probability that a difference in termination rates as large as that observed might have occurred by chance. When assessing statistical significance in a case such as this, the most universally recognized standard is .05. That is, if the statistical test yields a result of .05 or less, the result is statistically significant. As .018 and .010 are both less than .05, the observed difference in termination rates is statistically significant. These tests establish that the difference in termination rates for older and younger CAMR Market Information Managers are not likely to have occurred by chance. I also did a similar analysis using all 42 employees listed on page BoA 0666, that is, also including the 1 Administrative Assistant and the 3 Mgr. Customer Information employees, and that analysis also yielded statistical

significance.

11. Supporting Exhibits

Formal exhibits have not yet been developed for use at trial; however, I anticipate that exhibits will be created which depict the tables referenced in this report.

Signature: _____

Joel P. Wiesen, Ph.D.

Date: November 4, 2005

Expert Report in the Matter of Kincaid v. Bank of America

Joel P. Wiesen, Ph.D.
November 4, 2005

**Attachment:
Resume**

Resume of
Joel P. Wiesen, Ph.D.

27 Judith Road
 Newton, Massachusetts 02459-1715

(617) 244-8859 (work)
 (617) 332-6984 (home)
 Wiesen@personnelselection.com

Education	Ph.D. in Psychology, Lehigh University, 1975 M.A. in Psychology, C. W. Post College, 1969 B.A. in Psychology, Stony Brook State University, 1967
Employment History	Consultant in Industrial Psychology, 1977 - present Consult to public and private organizations, primarily in the areas of personnel assessment, selection, and layoff; develop tests of ability, aptitude, and work-style; conduct applied research concerning employment in organizational settings. (Full-time since 1/94.) Director of Test Development and Validation, 1977 - 1993 Massachusetts Department of Personnel Administration Develop, implement and evaluate employee selection, promotion, and performance evaluation tools and programs; conduct applied research concerning civil service employment. (Part-time position from 1987 to 1993.)
Professional Accomplishments	Plan, develop and implement programs in support of excellence and fairness in human resource management: develop culturally fair personnel assessment, selection and promotion tests and systems; conduct validation research and statistical analyses; develop diagnostic math tests for use in school settings; conduct program evaluation and redesign; expert witness in employment discrimination and sobriety testing cases; develop employee performance evaluation programs; and publish/deliver reports, papers.
Teaching Experience	Northeastern University, School of Engineering, Engineering Management Program Lecturer, 1978 - 1994 Lesley College, School of Management Adjunct Faculty, 1989 - 1994 Kings College, Psychology Department Asst. Prof. and Acting Department Chair, 1969 - 1975
Professional Associations	International Public Management Association for Human Resources Assessment Council, American Psychological Association and Society, New England Society of Applied Psychologists, Society of Industrial-Organizational Psychologists, American Statistical Association
Professional Honors	Past-President of IPMA-Assessment Council, Past-President of the New England Society of Applied Psychologists.
Licensure	Licensed as psychologist in two states (Massachusetts and Pennsylvania)